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MRS. ELEANOR ROOSEVELT

RECIPIENT OF THE DECALOGUE AWARD, 1957

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IN THIS ISSUE

The Editor will be glad to receive contributions of articles of modest length, from members of The Decalogue Society of Lawyers only, upon subjects of interest to the profession. Communications should be addressed to the Editor, Benjamin Weintroub, 179 West Washington Street, Chicago 2, Illinois.

SELECTION OF MRS. ELEANOR ROOSEVELT HIGHLY POPULAR

Requests for reservations for The Decalogue Society Twenty-Second Annual Merit Award Dinner, which will be held in the Palmer House Grand Ballroom on Saturday, February 22, continue at an unprecedented rate. Chairman of the Arrangements committee, Alec E. Weinrob, and Reginald J. Holzer, chairman of the Ticket committee, announce that the selection of Mrs. Eleanor Roosevelt as the recipient of The Decalogue Merit Award has met with the enthusiastic approval of the legal profession and the community. The price of admission is $9.50 per person.

Orders for tickets should be sent to the office of The Decalogue Society at 180 West Washington Street, Chicago 2, Illinois.

The Governor, the Mayor and an Editor to address our Society

Bernard Epton, chairman of our Forum Committee, has scheduled three important meetings which will be held under the auspices of his committee, in the Covenant Club. The dates are as follows: Governor William G. Stratton of Illinois will speak on February 7; Mayor Richard J. Daley of Chicago on March 7; and Harry Golden, editor of *The Carolina Israelite* on April 4. Subjects of addresses will be announced later.

Toast To The Bench

Our Society was host at its annual "Toast to the Bench" cocktail party on December 18, in the Covenant Club, to Judges of the Federal, State, and City Courts. Participation in the affair of members and their friends in the profession exceeded last year's attendance.

First Vice-President Alec E. Weinrob was chairman of arrangements. President Solomon Jesmer welcomed the gathering in a brief address.

DECALOGUE LUNCHEON MEETINGS

On Friday of each week the Board of Managers of The Decalogue Society of Lawyers meets in a private dining room for luncheon, at noon, at the Covenant Club, 10 North Dearborn Street. Members are invited to attend, listen to committee reports, and learn of the activities of our Bar Association. No reservations necessary.

ELEANOR ROOSEVELT - American Humanitarian

By BENJAMIN WEINTROUB, Editor

All movements or crusades depend on the personality of some individual man or woman for their inception and early momentum. Someone must care tremendously and give unstintingly before the idea takes sufficient root in a number of people's minds and goes forward without some tangible personality to give it interest . . . It is only tradition that keeps men from being even more vitally interested in peace than women, for they are the first line of defense. . . .

MRS. ELEANOR ROOSEVELT

The amazing public career of Mrs. Eleanor Roosevelt brings to mind the life of another dedicated woman, the late Miss Jane Addams. Upon this famous social worker was bestowed the title "a sweetheart of humanity." A like designation rightfully applies to the recipient of our Award of Merit. And yet the range, sweep, and versatility of Mrs. Roosevelt's activities are such that to James A. Farley, Democratic chieftain for three decades of this century, Mrs. Roosevelt was "the most practical woman he had ever met in politics"; a prominent New York lawyer called her "the First Lady of the World"; and a famous eastern journalist named her "Number One World Citizen."

Her most prominent characteristic is courageous disregard for equivocation on matters of principle. She withdrew from membership in the exclusive "Daughters of the American Revolution" because that organization would not permit the Negro, Marian Anderson, to sing in Constitution Hall. Appointed by President Harry S. Truman to the United Nations delegation of the U. N. General Assembly, she advocated in the drafting of the Declaration of Human Rights that it emphasize:

> . . . personal rights, such as freedom of speech, information, religion, and rights of property; procedural rights, such as safeguards for persons accused of crime; social rights, such as the right to employment and social security, and the right to enjoy minimum standards of economic, social, and cultural well-being; political rights, such as the right to citizenship and the right of citizens to participate in their government. . . .

It has been long and often admitted that Mrs. Roosevelt has demonstrated a singular capacity and uncommon gift for leadership. This, the more astonishing, for until her marriage in 1905, at the age of 20, she seldom ventured forth into streets, shops, or on social calls unless accompanied by a friend or maid. Hers was a dull and placid girlhood; she admits to having been "lonely" in New York, a city of millions. In her circle:

> . . . You never allowed a man to give you a present except flowers or candy or possibly a book. To receive a piece of jewelry from a man to whom you were not engaged was a sign of being a fast woman, and the idea that you would permit any man to kiss you before you were engaged never even crossed my mind. . . . All these restrictions seem foolish nowadays, but I wonder if the girls weren't safer. It requires more character to be as free as youth is today. . . .

It was only shortly after her engagement to F.D.R., her fifth cousin, then a law student at Columbia University, that she became interested in a Consumers' League that did some investigation of sanitary conditions in garment factories and department stores. She also taught at an East Side settlement house. These were the beginnings which launched her on a humanitarian career which now embraces all of mankind.

In 1910 her husband's bid for a political office resulted in his election to the New York State Senate in Albany. In 1913 Franklin Delano was appointed by President Woodrow Wilson as Assistant Secretary of the Navy. Mrs. Roosevelt's horizons were broadening. She was learning from her husband and his friends, as well as from observation and reflection, the mainsprings of the business of government. She soon demonstrated an uncommon aptitude for the grasp of political essentials. She was growing up as a student of the American political system and of the people called upon to administer it. And, scrupulously, she was fulfilling her role as hostess for and wife of a government official.

In 1920 she witnessed more of politics when her husband was candidate for the vice-presidency on the Democratic ticket with Cox pitted against Harding for the presidency.

In 1921 Franklin Delano was stricken with infantile paralysis, and acting on her friends' and his physician's advice, Mrs. Roosevelt increased her own political participation in order to rekindle her husband's interest in political affairs. She was active in the plans and deliberation of the New York State Democratic party. At the same time she became indefatigable in women's organization work and joined the Women's Trade League. Together with two woman friends she bought a New York private school for girls. Here she taught for six years. All this, of course, was incidental to the chores of rearing five growing children and attending to a frequently bedridden husband.

A long chapter could be devoted to the story of her political activities in Mr. Roosevelt's successful campaign for the governorship of the State of New York. By automobile, by train, and on foot, accompanied by one or two female friends, Mrs. Roosevelt blanketed the vast area of the Empire State in behalf of her husband's candidacy. Her political sagacity was reported equal to that of her husband and to other veterans of the "game" so that the statement "the Roosevelts are now a political team" was widely accepted. It is alleged that it was on her insistence that he consented to become a candidate for the office of governor in 1928.

After four years in Albany, F.D.R. was inaugurated in 1933 as the thirty-second president of the United States. For twelve years thereafter she helped the President—a man of phenomenal intellectual capacity but only in partial control of his limbs—carry on the burden of the greatest office on earth in the most trying period of human history.

It is not a matter of written record that Mrs. Roosevelt was personally responsible for any specific measure that distinguished her husband's administration. Ostensibly, she was but a wife, a mother, and a charming hostess. But one may well surmise that her concepts of humanitarian values were not without weight in helping F.D.R. make a number of his momentous decisions.

Her public career is a standing invitation and challenge to men and women of good will everywhere to don fighting garb and do battle in the building of a one world founded on peace and the brotherhood of man.

After several years in the nation's capitol, she was ranked by informed correspondents in Washington as one of "the ten most powerful persons in the national administration." All through her days in the White House the lot of the common people remained her deep and constant concern.

In the Second World War she served as assistant director of the office of Civilian Defense. She visited England, the Southwest Pacific, and the Caribbean, and upon the death of her husband she was appointed by President Harry S. Truman as United States Delegate to the United Nations. In 1946 she was elected chairman of the Commission on Human Rights. She is the author of numerous magazine and newspaper articles. Three of her books, *This Is My Story, This I Remember,* and *My Days,* are autobiographical. She collaborated with Lorena A. Hickok in doing a book on women, entitled, *Ladies of Courage.* Her syndicated column, "My Day", is one of the most widely read in the United States.

Mrs. Roosevelt is now seventy-two years old. Rather than retire from the American public scene, as might be expected after strenuous years as an associate and adviser of the most remarkable man of our generation, she persists in the good fight and commands acclaim and recognition on a global scale for her forthright stands on issues affecting the welfare of mankind.

This from Justice William O. Douglas of the United States Supreme Court:

> . . . Mrs. Roosevelt, for many years one of our leading citizens, has not been content to retire on past achievements. Her efforts to improve the physical, intellectual, and spiritual well-being of the people of the world have been continuous. She stands as a living symbol to women everywhere that the great American doctrine of equality of opportunity disregards sex as well as race, creed, and color. . . .

A newspaper columnist, public speaker, sponsor of civic betterment programs, a relentless foe of discrimination and prejudice, she is an uncompromising proponent of racial equality and a staunch defender of our Bill of Rights. Her voice, her pen, and her high prestige are for the common man.

She is one of the founders of Roosevelt University in Chicago and is today a member of its Advisory Board. On the occasion of the tenth anniversary of the founding of that institution she advanced her view on education:

> . . . Knowledge is essentially democratic and universal. It knows no borders, boundaries, color, creeds, or cultures. Frenchman Pasteur has saved lives in Caledonia. . . . Englishman Watt brought the factory system to America. . . . Italian Marconi revolutionized world communication. For knowledge is the acquaintance with truth . . . be it discovery, invention, or philosophy . . . and truth is universal. . . . Newton's law of gravitation applies here and in India . . . water consists of two atoms of hydrogen and one atom of oxygen wherever you find it. . . .

Deeply sympathetic with Israel's problems for survival, she said:

> We in the United States are somewhat similar to the people of Israel. After all, our nation, like Israel, was built by immigrants, people who came to this country to escape oppression, to find new ways of life. It took people with a spirit of adventure, skills, inventiveness, and courage. We see the same forces operating in Israel.
>
> There are other similarities, Israel is built on law, on respect for law, on respect for the human being, and on a desire for a democratic way of life. We also believe in government by law, in respect for the human being, in a democratic way of life.

Her life is a living testimonial of the vitality and integrity of American idealism. She has symbolized in her person and with her deeds, the striving of the mature intellect and understanding heart to lift the burdens of exploitation and inequality from man. She has enriched this generation with her espousal of a creed that attests to the immortality of eternal verities.

NATION ACCLAIMS DECALOGUE 1957 CHOICE

Below are excerpts from letters that have reached the President of our Society at the time this issue went to press. The next issue of The Decalogue Journal will contain, it is expected, more comments.

. . . She has been a devoted and outspoken advocate of democracy and freedom and a tireless and courageous critic of all forces which stultify and cripple the opportunity of peoples to live free from economic, political and social exploitations and inequities.

JACOB M. ARVEY

* * *

. . . I congratulate you upon having made such an excellent selection.

JUSTICE HUGO L. BLACK,
Supreme Court of the United States

* * *

. . . I think the selection of Eleanor Roosevelt for the Award of Merit of the Decalogue Society of Lawyers is very appropriate. Her service, in many ways, to the widening of the borders of human freedom makes this honor one she richly deserves.

ARCHIBALD J. CAREY, JR.
Chairman, President's Committee
on Government Employment Policy

* * *

. . . She stands as a living symbol to women everywhere that the great American doctrine of equality of opportunity disregards sex as well as race, creed and color.

WILLIAM O. DOUGLAS,
Justice, U. S. Supreme Court

* * *

. . . A humanitarian, who has consistently fought for the rights of free men everywhere, she has unflaggingly carried on the great democratic liberal program for which her husband—the late President Franklin D. Roosevelt—sacrificed his life. . . . She is not just Mrs. Eleanor Roosevelt—she is Mrs. United States of America.

RAYMOND P. DRYMALSKI,
Chief Justice,
Municipal Court of Chicago

* * *

. . . Mrs. Roosevelt's constant concern for the underprivileged and the oppressed, and her crusading determination to do something about it, have marked her as one of the most distinguished women of our time.

F. RYAN DUFFY, Chief Judge,
U. S. Court of Appeals, 7th District

* * *

. . . To praise Mrs. Roosevelt is almost presumptuous. How could your Award of Merit not be appropriately bestowed when it is bestowed upon her?

JUSTICE FELIX FRANKFURTER,
United States Supreme Court

* * *

. . . Mrs. Roosevelt is certainly the most distinguished woman of this century. She has made and is making enormous contributions to the cause of democracy in the United States and throughout the world. In an age when most people are content to let others take the lead in the struggle for human decency, Mrs. Roosevelt continues to write and speak out for causes we all cherish.

DR. ISRAEL GOLDSTEIN,
President, American Jewish Congress

. . . I have always regarded Eleanor Roosevelt as one of the outstanding women of America. I congratulate you on your selection.

HARRY B. HERSHEY,
Chief Justice, Supreme Court of Illinois

* * *

. . . Mrs. Roosevelt's altruistic vision and her noble endeavors have given inspiration to millions of Americans, as well as countless millions of peoples of all countries on this earth. Her life has been a blessing to all who have come in contact with her far-flung and understanding idealism.

BARNET HODES

* * *

. . . I consider her a vital influence in considering the requirements of the UN Charter to be international law. This is a true insight into the future if our world is to have peace and justice, and certainly warrants a lawyer's award.

SENATOR JACOB K. JAVITS, New York

* * *

. . . Eleanor Roosevelt is universally recognized today as a leading woman in the world. Her determined and energetic efforts in the cause of democracy and the general welfare brought her into areas of disagreement with people who preferred the status quo. Even they, today, though they may not accept her views acknowledge her pre-eminence as a person and a personality.

PHILIP M. KLUTZNICK,
International President, B'nai B'rith

* * *

. . . I admire her for her maintaining a lively interest in every aspect of public affairs, foreign and domestic. She has a warm, personal interest in all kinds of people, a trait to which I attach a high value since it is essential to people who hope to publish newspapers successfully.

Mrs. Roosevelt is one of the great personalities of our times.

JOHN S. KNIGHT,
Editor and Publisher, Chicago Daily News

* * *

. . . I am sure that my high regard and warm affection for Mrs. Roosevelt is well known. I have known Mrs. Roosevelt for more than thirty years. I have observed her as the wife of the Governor of New York State and the President of the United States. She was always a gracious lady, beloved by her countless friends. Modest, humble, she went from task to task with warm simplicity which gained the respect and admiration of all with whom she came into contact.

HERBERT H. LEHMAN

* * *

. . . We are all lucky that we are inhabiting the same planet with such a woman—who is a rare combination of sanity and genius. What would the world be like without Eleanor Roosevelt?

LEO H. LERNER,
Editor and Publisher

. . . Hrs. Eleanor Roosevelt has attained unique and exalted stature for clear-sightedness, for courage, for huanmitarianism, and for the high order of her dedication to democratic ideals.

RICHARD J. DALEY, Mayor
City of Chicago

* * *

. . . To my mind, she is one of the noblest persons in the whole world.

SENATOR PAUL H. DOUGLAS, Illinois

* * *

. . . I do not think you can honor a greater lady than Mrs. Roosevelt.

SAM RAYBURN, Speaker,
U. S. House of Representatives

* * *

. . . Mrs. Roosevelt is a symbol of the completely emancipated twentieth century spirit; her concern for the dignity of human beings never cribbed, cabined, or confined by consideration of race or creed or color.

A. L. SACHAR,
President, Brandeis University

* * *

. . . Her untiring efforts in behalf of democracy and the general welfare, at home and abroad, clearly support your choice.

E. DOUGLAS SCHWANTES,
President, The Chicago Bar Association

* * *

. . . Mrs. Roosevelt, as an American Spokesman in the United Nations, as unofficial Ambassadress to the World, has won the hearts and minds of millions in support of the democratic ideal and reverence for human dignity.

JACOB S. POTOFSKY, General President,
Amalgamated Clothing Workers of America

* * *

. . . She has spoken often for the concept of individual human freedom under law, which to me is the great idea and ideal we offer to the World at this crucial time in history. By presenting this Award at this time, I believe you will help to emphasize the need for law in the World community as a program to offset the ever-accelerating arms race.

CHARLES S. RHYNE,
President, American Bar Association

* * *

. . . Fine choice in the selection of the former First Lady of the land, Mrs. Eleanor Roosevelt, to be the recipient of the 1957 Award of Merit. Her contribution to the cause of democracy and the general welfare is indeed well known.

BERNARD J. SHEIL, D.D.
Auxiliary Bishop of Chicago

* * *

. . . All Americans owe her a debt of gratitude for her unremitting efforts in expanding the ideals of democracy. This lifelong dedication has earned her the respect and admiration of all people who share a common will to safeguard freedom and equality.

IRVING M. ENGEL, President,
The American Jewish Committee

* * *

. . . As a great American and an outstanding citizen of the world, she richly deserves the tribute being paid her.

AVERELL HARRIMAN,
Governor, New York

. . . Mrs. Roosevelt, in her warmth and graciousness, her compassion and understanding for all peoples, stands for an America in which the world wants to believe.

ADLAI E. STEVENSON

* * *

. . . She is one of our greatest and most beloved citizens, and she more than deserves this singular honor.

HARRY S. TRUMAN

* * *

. . . Mrs. Roosevelt's great contributions to the cause of democracy are too many for me to enumerate and I can only say that she more than deserves the important recognition being given her by the Decalogue Society of Lawyers.

ROBERT F. WAGNER,
Mayor of New York City

* * *

. . . I think that your Society has acted wisely in selecting Mrs. Roosevelt as the recipient of its Award of Merit. Her life-long devotion to the public welfare and her current activities in that field justly entitle her to the recognition which you show her.

CHIEF JUSTICE EARL WARREN,
Supreme Court of the nited States

* * *

. . . I know of no person now living who has done quite so much as Eleanor Roosevelt to further the general welfare of people everywhere, or who has contributed more to the advancement of the democratic process.

BARTLEY C. CRUM,

* * *

. . . Certainly there is no more deserving recipient of an Award of Merit than the woman who, in this generation, has done so much for the cause of democracy and for better understanding between peoples of the globe.

RICHARD L. NEUBERGER,
Senator, Oregon

* * *

. . . I can think of no person more deserving of the award than the woman whom you have selected and whom I consider the First Lady of the Universe.

RABBI JACOB J. WEINSTEIN,
K. A. M. Temple, Chicago

* * *

. . . Many women have been inspired by her example to work more actively and to speak more courageously for humane and decent public objectives.

GLADYS F. CAHN, President
National Council of Jewish Women

* * *

. . . Her many accomplishments, her dedication to duty, her unselfish efforts on behalf of others have put her name down in history not only as an outstanding "First Lady" but also as a woman first in the hearts of all the Americans for whom she has done so much.

TOM C. CLARK,
Associate Justice, Supreme Court
of the United States

* * *

. . . She richly deserves this tribute for she has contributed immeasurably to the cause of democracy and the general welfare. The American Federation of Labor-Congress of Industrial Organization is proud to salute Mrs. Roosevelt on this happy occasion.

GEORGE MEANY, President,
American Federation of Labor and
Congress of Industrial Organizations

Decalogue Society Seeks One Thousand New Members

An intensive drive sponsored by our Society to enlarge the ranks of our organization with another one thousand lawyers of Jewish faith will be launched shortly. Past President, Jack E. Dwork and committee will direct the campaign.

"The Decalogue Society of Lawyers", Mr. Dwork stated, "has proved its usefulness as a professional body. Founded in 1934, it has grown in size, prestige, and influence as a bar association and an effective communal group of civic-minded men and women. Independent and free of affiliations with political or partisan bodies. The Decalogue Society has always been in the van of movements the purpose of which is the welfare of the legal profession and the best interests of the United States. The Society now numbers nearly fifteen hundred members and its good will and endorsement are sought on matters affecting the progress of Bench and Bar."

Participation of the entire membership in the conduct of Society's affairs and formulation of its policies is eagerly welcomed by its Board of Managers. More than twenty committees are engaged in probing and trying to solve problems dealing with discrimination, legislation, civic affairs, ethics, relations between Bench and Bar, and younger member activities. The committees are in session at the call of their respective chairmen and general membership attendance is warmly welcomed.

The Society publishes its own Bi-Monthly Journal which attempts to reflect in its bi-monthly issues changes in the law on a state and national scale and, in articles written by its members, seeks to determine the weight and import of legal problems as these affect the practice of law. Books of interest to the lawyer are regularly reviewed in The Decalogue Journal. News of members' activities are constantly mirrored in its pages.

The Society's Diary and Directory is annually distributed free to its membership. The book has proved an indispensable daily working tool for the legal practitioner.

Members are urged to contact Mr. Jack E. Dwork at his office, 77 W. Washington Street, telephone RA 6-4747 or write to Society offices at 180 W. Washington Street, telephone AN 3-6493, for membership application cards and detailed instructions as to how best to interest their friends in the profession to join The Decalogue Society of Lawyers. The dues are fifteen dollars a year with the exception that to members who have practiced less than five years, the annual cost is seven dollars and fifty cents.

BIG BROTHER PLAN TO AID YOUNGER MEMBERS

The Chicago graduate chapter of Tau Epsilon Rho legal fraternity has launched a unique "big brother" program for assisting its graduate and undergraduate law student members.

Atty. Zeamore A. Ader, chancellor of the local chapter, announced the plan at a luncheon meeting in honor of the chapter's newly-admitted members of the bar.

The plan calls for senior members to offer educational guidance and legal advice and assistance on an individual basis to both newly-admitted lawyers and undergraduate students at the fraternity's Northwestern university chapter.

Younger members who request it will be assigned "big brothers" who will aid them throughout their law school courses and beyond.

The Tau Epsilon Rho is one of the largest legal fraternities in the country.

Hebrew University Law School

Professor Benjamin Akzin, Dean of the Law School of the Hebrew University of Jerusalem, addressed our Board of Managers on October 25, at the Covenant Club on "The Law of Israel—Mosaic, Talmudic and Modern."

The professor also expressed the deep appreciation of the Hebrew University Law School for our Society's last year's gift of $2,000 dollars towards the law school's urgent needs. Dean Akzin expressed a hope that The Decalogue Society examine the possibility of projects to cover the establishment of a Chair in the Law Faculty, a grant for the use of fellowship assistants, a fund for purchase of books in the Law Library, and a concerted campaign to indoctrinate members of our society in the use of wills and legacies that favor the Hebrew University.

CIVIC AFFAIRS COMMITTEE

The Civic Affairs Committee has under consideration a proposal that the Corporation Counsel and the State's Attorney each appoint one assistant who would work full time in the area of civil rights. After examining the advisability of the proposal the Committee will present a report to the Board of Managers. The Committee is also working on an extensive analysis of the Immigration laws, to determine what changes would be desirable in this area.

Leonard L. Leon is chairman of The Decalogue Civic Affairs Committee.

THE WARREN COURT - Return To The Constitution

By LEONARD L. LEON

One would have to go back to the aftermath of the election of 1800, and the Jeffersonian clash with the Federalist Judiciary to find a campaign equaling in ferocity the present day attack directed against the United States Supreme Court.[1] By comparison the brick bats thrown at the "Nine Old Men" in the New Deal era, were bouquets indeed. Why this almost unparalleled attack on the Court? To find the answer one must review some recent history.

When Earl Warren became Chief Justice in 1954, not even the most sanguine of liberals would have ventured to predict that three years later would find a new, if somewhat tenuous majority for civil liberties on the Court. In 1954, the Bill of Rights was still staggering from the hammerlike blows administered by a relentless Vinson Court.[2] The First Amendment had been deprived of much of its vitality; the Fifth Amendment was in disrepute. The lonely dissents of Justices Black and Douglas in civil liberties cases were noted with almost monotonous regularity. Whatever the final verdict of history as to Harry Truman, it is certain that not even his most ardent admirers will find much to defend in his appointments to the Supreme Court. One student of the Court acidly comments, ". . . the Truman-Vinson Court was more often the nation's shame than its pride at giving life to democracy's high ideals. The tragedy—as history is sure, some day, to record it—is that the Supreme Court's majority, with the most magnificent opportunity ever granted so small a group to show the world the profound difference between the humanity of democracy and the brutality of a dictatorship, so miserably failed; that the Court—except in the Negro cases—while purporting to fight a foreign tyranny actually aped it."[3] It was against this backdrop, with civil liberties at a low ebb, that the present Chief Justice took office.

The attack against the Warren Court has come mainly from two groups; the segregationists and the advocates of a system of "absolute security." As to the segregationists, they have never forgiven the Chief Justice the writing of the opinion in *Brown v. Board of Education*[4] which established the right of an eleven year old Negro schoolgirl named Linda Brown, to go to a nonsegregated school in Topeka, Kansas. In the segregationists' view, the Court's decision was nothing short of treason. "Separate but equal facilities" had been their battle standard for more than half a century. To them, the best of all possible worlds had been *Plessy v. Ferguson*.[5] Small wonder then that they vented their frustrated rage on the symbol of their misfortune—the Supreme Court, and the Chief Justice.[6]

It seems quite likely that had the Court left "well enough alone" the storm of abuse aroused against it by the segregation cases would have soon subsided. Despite the hue and cry that arose, it was quickly apparent that the bitterness was primarily limited to the segregationist element in the South. "Equal protection under the laws" had become respectable in the United States in recent years, and the would be allies of the segregationist forces, hesitated to make common cause with them on this issue.[7]

LEONARD L. LEON

Then the liberal majority of the Court committed the unpardonable sin. In a series of historic decisions, it reaffirmed the validity of the Fifth Amendment as "a safeguard against heedless, unfounded or tyrannical prosecutions,"[8] and "restored the First Amendment liberties to the high preferred place where they belong in a free society."[9] The reaction was instantaneous and virulent. Self-styled "experts" on Constitutional law and Constitutional history smote the Court mighty blows. The Court was charged with an "invasion of the legislative field,"[10] "attempting to consolidate all governmental power in its own hands,"[11] and putting the Congressional investigating committees out of business.[12] Also placed at the Court's doorstep was the responsibility for shattering our security system[13] and giving aid

and comfort to the enemy.[14] Solutions were many and varied for remedying the situation. They ran the gamut from shrill cries for impeachment[15] to a demand that the various states be vested with greater control over appointments to the Court.[16] One suggestion was made that there be a constitutional amendment requiring that justices be reconfirmed every four years.[17] Does the Warren Court deserve the opprobrium heaped upon it by its critics? A brief analysis of the decisions in controversy will quickly dispel any such illusions.

In the companion cases of *Quinn, Emspak* and *Bart*[18] the petitioners were charged with contempt for refusing to answer questions concerning alleged Communist activities, asked them by the House Un-American Activities Committee. The Court held that no special formula was necessary to invoke the privilege against self-incrimination, and that a witness could not be punished for contempt, unless his objection to a question was overruled by the Committee and the witness directed to answer. Obviously influenced by Harvard Law School Dean Erwin N. Griswold's brilliant exposition on the validity and importance of the Fifth Amendment,[19] the Court reaffirms the value of the privilege as a symbol of a free society and says "to apply the privilege narrowly or begrudgingly—to treat it as an historical relic, at most merely to be tolerated—is to ignore its development and purpose."[20]

A significant portent of things to come, culminating in the *Watkins* and *Sweezy* cases[21] were the words of the Chief Justice recognizing the limitations on the powers of Congressional Committees.

> But the power to investigate, broad as it may be, is also subject to recognized limitations. It cannot be used to inquire into private affairs unrelated to a valid legislative purpose. Nor does it extend to an area of which Congress is forbidden to legislate. Similarly, the power to investigate must not be confused with any of the powers of law enforcement; those powers are assigned under our Constitution to the Executive and the Judiciary. Still further limitations on the power to investigate are found in the specific individual guarantees of the Bill of Rights, such as the Fifth Amendment's privilege against self-incrimination which is in issue here.[22]

In *Slochower*[23] the Court held that the mere invocation of the Fifth Amendment before a Congressional Committee without more, would not sustain the discharge of a professor from his position at a New York City college, the Court again citing Griswold and reiterating that "the privilege serves to protect the innocent who otherwise might be ensnared by ambiguous circumstances."[24] The Chief Justice emphasized that no automatic inference or presumption of guilt can flow from the use of the privilege.[25]

The *Konigsberg*[26] and *Schware*[27] cases involved the fate of two applicants denied the right to practice law at the bar of their respective states, California and New Mexico. Both Konigsberg and Schware had been accused of prior membership in the Communist Party, Schware admittedly having been a member from 1932 to 1940. Konigsberg further refused to answer questions as to his political affiliations and associations, relying on the First Amendment. The Court held in both cases that the mere fact of prior membership would not support an inference that they did not have good moral character. In the absence of evidence that the petitioners "participated in any illegal activity or did anything morally reprehensible as a member of [the] party" the refusal to allow the petitioners to practice law was a denial of due process.[28] The opinions clearly indicate that the Court looks with scant favor on political tests as a requirement for the practice of law.[29]

> We recognize the importance of leaving States free to select their own bars, but it is equally important that the State not exercise this power in an arbitrary or discriminatory manner nor in such way as to impinge on the freedom of political expression or association. A bar composed of lawyers of good character is a worthy objective but it is unnecessary to sacrifice vital freedoms in order to obtain that goal. *It is also important both to society and the bar itself that lawyers be unintimidated—free to think, speak and act as members of an Independent Bar.*" (emphasis supplied)[30]

If any doubt remained in the minds of the critics of the Court that somehow the Court had been "subverted," all doubt was dispelled, when in June of last year, four far reaching decisions were handed down; *Jencks v. U.S., Yates v. U.S., Sweezy v. State of New Hampshire,* and *Watkins v. U.S.*[31] *Jencks,* the least important of the decisions, aroused perhaps the most heat and controversy. Jencks was prosecuted for filing a false non-communist affidavit with the National Labor Relations Board. Matusow and Ford, the Government's principal witnesses as to Jencks alleged Communist Party activities, had made written reports to the Federal Bureau of Investigation. The Supreme Court reversed and ordered a new trial holding that Jencks was entitled to inspect the reports to decide whether to use them in his defense.[32] No one reading the lucid opinion of Justice Brennan can doubt that the Court was merely reaffirming a fundamental principle of our concept of criminal jurisprudence. It would seem that due process would require nothing less than that the Government should produce the reports so that the credibility of the informer witnesses which in all likelihood would be instrumental in sending the defendant to prison, could be tested.

Had the defendant been other than an accused Communist, it is extremely improbable that the case would have caused more than a ripple on the national scene. However, the Court's audacity in holding that even accused Communists are entitled to due process of law caused such a bitter outcry[33] that Congress

promptly passed a law of questionable constitutionality to circumvent the Jencks decision.[34]

In *Yates* and its companion cases[35] (conveniently grouped as the California Smith Act Cases) the Supreme Court finally took that long, hard look at the Smith Act that Vinson had so cavalierly promised in *Dennis*.[36] These were the first Smith Act cases in which the Court actually reviewed the trial record. The Court vacated all the convictions, holding that as to some of the defendants, the evidence was insufficient to justify a new trial, and that as to the others a new trial was necessary. The Court distinguished *Dennis* on the grounds that the trial Court's charge to the jury in *Yates* had not recognized the difference between advocacy and teaching of forcible overthrow as an abstract doctrine, and incitement directed at illegal action. The decision in *Yates* leaves a great deal to be desired[37] for the Smith Act and *Dennis* are still with us, substantially intact. However, it would be unrealistic not to recognize that the Court's careful examination of the evidence, and its refusal to extend the rationale of the Dennis case to its logical conclusion, represent a significant step forward.

Watkins and *Sweezy*[38] are undoubtedly the most important of the cases decided by the Court. Their importance goes far beyond the precise holding in each case, for the Court recognized the truism which Justices Black and Douglas had so vainly urged upon the Vinson Court in their series of memorable dissents—that the First Amendment is the cornerstone upon which our free society rests. Sweezy, a Marxist author and lecturer was convicted of contempt for refusing to answer certain questions put to him by the Attorney General of New Hampshire, who was investigating "subversive activities" in New Hampshire in accordance with a mandate from the state legislature. Sweezy freely answered most of the questions concerning his past conduct and associations. He denied that he had ever been a member of the Communist Party, and he emphatically stated that he had never been part of any program to overthrow the government by force or violence. However, he refused to discuss his association in 1948 with the Progressive Party of New Hampshire,[39] or the contents of a lecture he had given to a class in humanities at the University of New Hampshire. The Court set aside the conviction stating that the appointment of the Attorney General to act as a committee for the legislature, to investigate "subversive activities" resulted in a separation of the legislature's power to conduct investigations from the responsibility to direct the use of the power. In unequivocal language, the Court restates for those of us who have forgotten, our First Amendment heritage:

> There is no doubt that legislative investigations, whether on a federal or state level, are capable of encroaching upon the constitutional liberties of individuals. It is particularly important that the exercise of the power of compulsory process be carefully circumscribed when the investigative process tends to impinge upon such highly sensitive areas as freedom of speech or press, freedom of political association, and freedom of communication of ideas, particularly in the academic community. . . . Scholarship cannot flourish in an atmosphere of suspicion and distrust. Teachers and students must always remain free to inquire, to study and to evaluate, to gain new maturity and understanding; otherwise our civilization will stagnate and die.
>
> Equally manifest as a fundamental principle of a democratic society is political freedom of the individual. Our form of government is built on the premise that every citizen shall have the right to engage in political expression and association. This right was enshrined in the First Amendment of the Bill of Rights. Exercise of these basic freedoms in America has traditionally been through the media of political associations. Any interference with the freedom of a party is simultaneously an interference with the freedom of its adherents. All political ideas cannot and should not be channeled into the programs of our two major parties. History has amply proved the virtue of political activity by minority, dissident groups, who innumerable times have been in the vanguard of democratic thought and whose programs were ultimately accepted. Mere unorthodoxy or dissent from the prevailing mores is not to be condemned. The absence of such voices would be a symptom of grave illness in our society.[40]

This was strong stuff after a decade of conformity and orthodoxy but the cruelest blow of all was *Watkins*.[41] *Watkins*, a labor leader, had been cited for contempt as a consequence of his refusal to tell all before a subcommittee of the House Un-American Activities Committee. He (like Sweezy) denied ever being a member of the Communist Party and freely discussed his past activities. He refused however to testify about persons who might have been Communists in the past, but no longer were members or active in the Communist Party. In reversing the conviction, the Court held that the authorizing resolution of the Committee was too vague, and that the subject matter of the inquiry had to be made known to the witness so that he could judge the pertinency of the questions put to him. One cannot read the opinion without recognizing that an era is coming to an end. An era when in the name of an illusory security, any violation of the Bill of Rights was assented to so long as the target was "a tiny band of miserable merchants of unwanted ideas."[42] The Court made it unmistakeably clear that no longer would it acquiesce in a legislative committee riding rough shod over the First Amendment. Discussing the vagueness of the congressional authorizing resolution, the Court struck a telling blow against what had been up until now an unquestioned tenet of the inquisitorial faith. "It would be difficult to imagine a less explicit authorizing resolution. Who can define the meaning of 'Un-American'? What is that single, solitary principle of the form of government as

guaranteed by our Constitution?"[43] The decision while admitting that the power of the Congress to conduct investigations is broad, goes on to say, "but broad as is this power of inquiry, it is not unlimited. There is no general authority to expose the private affairs of individuals without justification in terms of the functions of the Congress."[44] And in what can be interpreted only as a direct rebuke of the House Un-American Activities Committee and the Senate sub-committee on Internal Security, the Court pointedly says, "Nor is the Congress a law enforcement or trial agency. . . . No inquiry is an end in itself; . . . Investigations conducted solely for the personal aggrandizement of the investigators or to 'punish' those investigated are indefensible.[45] No doubt every reasonable indulgence of legality must be accorded to the actions of a coordinate branch of our Government. But such deference cannot yield to an unnecessary and unreasonable dissipation of precious constitutional freedoms."[46]

This writer has not intended to convey the impression that in the area of civil liberties the Warren Court has always been on the side of the angels. Certainly a careful analysis of the Court's decisions reveal otherwise.[47] But one must unreluctantly concede that the Warren Court has done much to restore that delicate balance between the legitimate security needs of the Government and the rights and liberties of a free people, which the Vinson Court did so much to imbalance. Contrary to the Court's critics, it has not "subverted" the Constitution—it has restored to it the vitality without which a democratic society could not for long remain free. Professor Rodell, writing in 1955 of the prognosis for the Warren Court said this:

> Indeed, the most hopeful and happy omen of them all is the apparent judicial character of the new Chief Justice. He [resembles] a might-be twentieth-century Marshall. The same easy strength is there, and the same earthy approach to the esoterics of law. But where Marshall's achievement was to protect a weak nation, as a nation, from its people, Warren's opportunity is the precise opposite; it is to protect the people, as people, from their strong nation. Given the will and the goodwill to do it, he can succeed.
>
> O'Shaughnessy, the Irish poet, once sang: 'For each age is a dream that is dying, or one that is coming to birth.' Over eight score years and five, through age after different age, the men who are the Supreme Court of the United States have attended the birth and the death of different dreams. Today it would be a tragedy if the Black and Douglas dissents— which are rather affirmations of faith—should prove a dirge for the bravest dream of all. For under the inspiration of those two great Justices and the aegis of a potentially great Chief Justice, the American dream of freedom may be reborn.[48]

Despite Professor Rodell's observation that "prediction in print is a preoccupation for the foolhardy" it would seem that his gift for prophecy is indeed highly developed.

FOOTNOTES

[1] Claude G. Bowers, *Jefferson in Power*, pp. 268-293.

[2] *American Communications Association v. Douds*, 339 U.S. 382; *Dennis v. U.S.*, 341 U.S. 494; *Barsky v. U.S.*, 167 F.2d 241, cert. den. 334 U.S. 843; *U.S. v. Josephson*, 165 F.2d 82, cert. den. 333 U.S. 838; *Knauff v. Shaughnessy*, 338 U.S. 537; *Kamp v. U.S.*, 176 F.2d 618, cert. den. 339 U.S. 957; *Lawson v. U.S.*, 176 F.2d 49, cert den. 339 U.S. 934;*Marshall v. U.S.*, 176 F.2d 473, cert den. 339 U.S. 933; *Rogers v. U.S.*, 339 U.S. 956; *Feiner v. New York*, 340 U.S. 315; *Bailey v. Richardson*, 182 F.2d 46, affirmed without opinion, 341 U.S. 918; *Washington v. McGrath*, 182 F.2d 375, affirmed without opinion, 341 U.S. 923; *Garner v. Board of Public Works of Los Angeles*, 341 U.S. 716; *Harisiades v. Shaughnessy*, 342 U.S. 580; *Carlson v. Landon*, 342 U.S. 524; *Beauharnais v. Ill.*, 343 U.S. 250; The list of cases is by no means exhaustive.

[3] Fred Rodell, *Nine Men, A Political History of the Supreme Court from 1790 to 1955*, p. 304. Besides Chief Justice Vinson, Truman appointed Justices Minton, Clark and Burton. Of the four appointees, Justices Clark and Burton remain.

[4] 347 U.S. 483.

[5] 163 U.S. 537. The decision in *Brown v. Board of Education*, expressly repudiated *Plessy* and the "separate but equal facilities" doctrine. Supra note 4, at pp. 494, 495.

[6] The senior Senator from Virginia called the Chief Justice a "modern Thaddeus Stevens," (Stevens was the leading exponent of a harsh policy towards the South in the post Civil War Reconstruction era) and accused him of conspiring with the NAACP and the ADA against the South. *New York Times*, July 17, 1957, p. 14. However even the Vinson Court had obliquely recognized that *Plessy* and the "separate but equal facilities" doctrine was outmoded; a relic of an age that could not be returned to. Cf. *Sweatt v. Painter*, 339 U.S. 629; *McLaurin v. Oklahoma State Regents*, 339 U.S. 637.

[7] A perceptive observer of the American political scene commented on the distinction drawn in the American body politic between "civil liberties" and "civil rights." Thus, he pointed out that in 1949, at the same time that "civil rights" (the right to be free of discrimination without regard to race, color or creed) were being extended and protected, "civil liberties" were being severely curtailed. Carey McWilliams, *Witch Hunt, The Revival of Heresy*, p. 4-13.

[8] *Quinn v. U.S.*, 349 U.S. 155; *Emspak v. U.S.*, 349 U.S. 190; *Bart v. U.S.*, 349 U.S. 219; *Slochower v. Bd. of Education*, 350 U.S. 551; *Grunewald v. U.S.*, 777 S.Ct. 963.

[9] The phrase is Justice Black's dissenting in *Dennis v. U.S.*, supra note 2 at p. 581; *Watkins v. U.S.*, 77 S. Ct. 1173; *Sweezy v. State of N.H.*, 77 S. Ct. 1203; *Schware v. Board of Bar Examiners of the State of N.M.*, 77 S. Ct. 752; *Konigsberg v. State Bar of Calif.*, 77 S. Ct. 722; *Jencks v. U.S.*, 77 St. Ct. 1007; *Yates v. U.S.*, 77 S. Ct. 1064.

[10] *New York Times*, June 5, 1957, p. 21; ibid, June 19, 1957, p. 18.

[11] Ibid, June 25, 1957, p. 15.

[12] Ibid, June 26, 1957, p. 25. Considering the record of the House Un-American Activities Committee and the Senate sub-committee on Internal Security for consistent violation of Constitutional guarantees, some authorities heartily applaud such a suggestion. For example, see Robert K. Carr, *The House Committee on Un-American Activities*, 1945-1950, p. 459.

[13] *New York Times*, June 5, 1957, p. 21; Ibid, June 19, 1957, p. 16.

[14] Ibid, June 25, 1957, p. 1, 18. Not all of the critics of the Court were so temperate! One prominent southerner

called the Court "a hierarchy of despotic judges that is bent on destroying the finest system of Government ever designed." Ibid, July 26, 1957, p. 6.

[15] Ibid, June 25, 1957, p. 16; ibid, July 8, 1957, p. 15.

[16] Ibid, June 25, 1957, p. 25.

[17] Ibid, p. 15.

[18] Supra, note 8.

[19] Erwin N. Griswold, *The Fifth Amendment Today.* The Court refers twice to it in the *Quinn* opinion, supra note 8, court footnotes 26 and 31. Dean Griswold's influence in changing the climate of opinion as to the privilege cannot be overestimated.

[20] *Quinn v. U.S.*, supra note 8.

[21] *Watkins v. U.S.*, supra note 9, *Sweezy v. U.S.*, ibid.

[22] *Quinn v. U.S.*, supra note 8 at p. 161.

[23] *Slochower v. Board of Education*, supra note 8.

[24] Ibid p. 557-8.

[25] "At the outset, we must condemn the practice of imputing a sinister meaning to the exercise of a person's constitutional right under the Fifth Amendment. The right of an accused person to refuse to testify, which had been in England merely a rule of evidence, was so important to our forefathers that they raised it to the dignity of a constitutional enactment, and it has been recognized as "one of the most valuable prerogatives of the citizen." Ibid, p. 557, Cf. *Grunewald v. U.S.*, supra note 8, where the Court held in a case involving a conspiracy to defraud the United States in certain tax matters, that no implication of guilt could be drawn from defendant's invocation of his privilege before a grand jury. Again Dean Griswold's slender, but monumental work is invoked as authority.

[26] *Konigsberg v. State Bar of Calif.*, supra note 9.

[27] *Schware v. Board of Bar Examiners of the State of N.M.*, ibid.

[28] Konigsberg had passed the California bar examination, but was refused certification, while Schware had been denied permission to take the New Mexico bar examination.

[29] Cf. *In re Anastaplo*, 3 Ill. 2d 471, cert den., 348 U.S. 946.

[30] *Konigsberg v. State Bar of Calif.*, supra note 9, p. 722, 723.

[31] Supra, note 9.

[32] At the trial, counsel for Jencks had merely asked that the reports be submitted to the trial judge for his determination of relevancy and materiality for the purposes of cross-examination. The Supreme Court went beyond this holding that the reports must be submitted first to the defendant, since he was best able to determine their value, if any, to his cause.

[33] See notes 10 thru 17, supra.

[34] Senator Wayne Morse commenting on Senate Bill S.2377 said: "There is no place in America for a police-state tactic which keeps locked up from free men and women charged with crime, information which, under process they are entitled to have if they are to have a fair trial . . .we are dealing in too much haste with a precious right in criminal jurisprudence . . ." *Congressional Record*, July 3, 1957, pp. 9791, 9792.

[35] *Yates v. U.S.*, supra note 9.

[36] "Where there is doubt as to the intent of the defendants, the nature of their activities, or their power to bring about the evil, this Court will review the convictions with the scrupulous care demanded by our Constitution." *Dennis v. U.S.*, supra note 2, at p. 516.

[37] "I would reverse every one of these convictions and direct that all the defendants be acquitted. In my judgment the statutory provisions on which these prosecutions are based abridge freedom of speech, press and assembly in violation of the First Amendment. . . . The First Amendment provides the only kind of security system that can preserve a free government—one that leaves the way wide open for people of favor, discuss, advocate, or incite causes and doctrines, however obnoxious and antagonistic such views may be to the rest of us." Justice Black with whom Justice Douglas joined, concurring in part and dissenting in part in *Yates v. U.S.*, supra note 9, pp. 1087, 1090.

[38] *Watkins v. U.S.; Sweezy v. State of N.H.*, supra note 9.

[39] The decision ironically notes that of the 1,156,103 votes the Progressive Party polled nationally in 1948, exactly 1,970 votes were cast for it in that hotbed of radicalism, New Hampshire; ibid, at p. 1207, court footnote 7.

[40] Ibid, 1209, 1212.

[41] *Watkins v. U.S.*, supra note 9.

[42] Justice Douglas dissenting in *Dennis v. U.S.* supra note 2 at p. 589.

[43] *Watkins v. U.S.*, supra note 9 at p. 1187.

[44] Ibid, at p. 1179.

[45] Ibid.

[46] Ibid, at p. 1188.

[47] See *Ullman v. U.S.*, 350 U.S. 422; *Black v. Cutter Laboratories*, 351 U.S. 292; *Jay v. Boyd*, 351 U.S. 345; *Matter of Groban*, 352 U.S. 330; *Breithaupt v. Abram*, 352 U.S. 432; *U.S. v. Int'l Union, U.A.W.*, 352 U.S. 567; *Roth v. U.S.* 77 S. Ct. 1304; *Kingsley Books v. New York*, 77 S. Ct. 1325.

[48] *Rodell*, supra note 3 at p. 331, 332.

JOSEPH S. GRANT, DIRECTOR

Member Joseph S. Grant, President of the J. S. Grant Mortgage Company, was elected at the last meeting of The Peoples National Bank of Chicago, a director of that institution.

Grant is a member of The Chicago, Illinois, and American Bar associations. He is also active in several civic, philanthropic, and educational organizations.

ALEXANDER KAPLAN

Member Alexander Kaplan was recently elected to serve his fifth term as President of the American Blood Research Society of Chicago. He was also elected Vice-President of the National Blood Research Foundation, and a Director of Little City, Inc. for retarded children.

TALK ON LEGISLATION

Member Marshall Korshak, state senator, addressed our Society at a luncheon on Friday, September 20 at the Covenant Club, on recent legislative accomplishments of the Illinois legislative session in Springfield.

The meeting was held under the auspices of The Decalogue Forum Committee, Bernard E. Epton, chairman.

Applications for Membership

FAVIL DAVID BERNS, *Chairman Membership Committee*
STANLEY STOLLER, *co-chairman*

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	Favil David Berns
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Morton H. Cohon	M. N. Andalman
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David Davidson	Elias Levin
	Favil David Berns
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Julian J. Frazin	Benjamin Weintroub
	Reginald Holzer
Samuel Gore	Favil David Berns
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	Maurice L. Lewis
Ronnie Ileane Orzoff	Matilda Fenberg
	Leonard L. Leon
Burton H. Palmer	Reginald J. Holzer
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Bernard H. Raskin	Jack Dwork
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	Michael A. Gerrard
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	Joseph J. Abbell
Marshall R. Rothman	Alec E. Weinrob
	Judge Hyman Feldman
Ralph M. Schelly	Alec E. Weinrob
	Judge Hyman Feldman
Arthur F. Schwartz	Norman R. Silverman
	Milton M. Blumenthal
Norman M. Shapiro	Oscar M. Nudelman
Reuben R. Stein	Meyer Weinberg
	Moe M. Forman
Paul H. Vishny	Benjamin Weintroub
	Paul G. Annes
Burton B. Vlay	Elias Levin
	Favil David Berns
Daniel Weinberger	Zeamore A. Ader
	David F. Silverzweig
Sheldon P. Zisook	Reginald Holzer
	Favil David Berns

ELMER GERTZ, Chairman

Past President Elmer Gertz was chairman of The Decalogue Society Merit Award committee which selected Mrs. Eleanor Roosevelt the recipient of the Decalogue Annual Award for 1957.

JUDGE NORMAN N. EIGER

Judge Norman N. Eiger, financial secretary of our Society, participated on November 15 and 16, in a course of lectures sponsored by The College of Law, University of Illinois, at Urbana, Illinois, on "An Analysis of the Illinois Court System." The Judge's subject was *Municipal Courts and the Municipal Court of Chicago.* Several judges of Federal courts and courts of general, special, and limited jurisdiction discussed various aspects of the Illinois court system.

Trust Problems

Member Irvin A. Goodman, vice president and trust officer of The Exchange National Bank of Chicago addressed our Society on November 1st, at a luncheon, in the Covenant Club on "Your Clients Problems and Trust Remedies as Your Tools." Mr. Goodman's lecture will be published in the next issue of The Decalogue Journal.

The meeting was held under the auspices of The Decalogue Legal Education Committee.

HARRY G. FINS ON 1957 ILLINOIS LEGISLATION

Harry G. Fins, author and teacher, addressed our Society on October 11, in the Covenant Club, on "Illinois 1957 Legislation Affecting Practice of Law."

Albert I. Zemel and John M. Weiner are co-chairmen of The Decalogue Legal Education Committee, which arranged this meeting.

THE DECALOGUE JOURNAL

Subsequent to the admission by the American Association of Law Libraries of The Decalogue Journal into *The Index to Legal Periodicals*, the following university schools of law and law libraries requested complete sets of The Decalogue Journal:

Temple University School of Law, Philadelphia, Pa., The Cleveland Law Library Association, Cleveland, Ohio, University of Utah College of Law, Salt Lake City, Utah, and Texas Southern University School of Law, Houston, Texas.—Editor

MATRIMONIAL LAW DEVELOPMENTS IN ILLINOIS

By MEYER WEINBERG

Mr. Weinberg is the author of ILLINOIS DIVORCE, SEPARATE MAINTENANCE AND ANNULMENT *and the editor of Matrimonial Law Bulletin issued bi-monthly by the Illinois State Bar Association.*

Matrimonial law, as other phases of law, has not remained static. The complexities of modern society, creating new social problems, invited new remedies. Some of these problems found solution in the existing statutes and case law; other problems were not so remedied.

Among the many laws passed by the Illinois Legislature in 1957, were the following acts directly affecting the practice of matrimonial law:

Amendments to the "Cool-off" or waiting period laws affecting divorce and separate maintenance (H.B. 928 eff. 9/1/57, ch. 40; secs. 6a-6f. Ill. Rev. Stat.) Act on Blood Tests to determine Paternity (H.B. 729 ch. 17, secs. 31-37 Ill. Rev. Stat.)

Revocation of Will by Marriage, Divorce, or Annulment (S.B. 54, amending Sec. 46 of Probate Act—ch. 3, Sec. 197, Ill. Rev. Stat.)

The "Cool-off" amendments were prepared to reach the following problems:

Mandatory Abatability of Actions
Publication Divorces
Temporary Relief
Validation of certain decrees
Conformance to time schedule of Civil Practice Act

Mandatory Abatability Of Actions

The "Cool-off" laws passed in 1955 required a 60 day waiting period between the service of summons or filing of an appearance of the last day of publication, and the filing of a Complaint for Divorce or Separate Maintenance; this, of course was the creation of a conciliation or "Cool-off" period. The said laws also required the filing of the said Complaints "not more than 70 days from said dates herein described, or not later than 90 days from the filing of the praecipe," which started the proceeding, or else the cause of action automatically abated. This "booby-trap" not so intended, was not capable of safe and reasonable interpretation. Accordingly, many Complaints for Divorce or Separate Maintenance were dismissed by judges, as having abated. Many cautious lawyers also dismissed their actions in these situations and re-filed new actions. However, great numbers of these Complaints so filed in apparent violation of this mandatory provision for abatability, went to questionable decrees. To resolve this very serious problem, the 1957 amendments retained the "Cool-off" provision but abolished the clause for abatement. Also, as later described herein, curative provisions were made for doubtful decrees.

Divorces; Publication

The 1955 laws provided, as in other divorce and separate maintenance cases, for the filing of the praecipe and the subsequent publication even before a Complaint was on file. This was violently criticized as being contrary to basic law, by not conforming to "due process of law." Some lawyers resorted to a second publication after the Complaint was on file; this was not so provided for in the laws. Also, as to cases involving real estate, the case of Failing v. Failing, 4 Ill. 2d 11, presented the jurisdictional requirement that before a valid in rem decree could be entered affecting Illinois realty, there must be either a seizure of the property or a description in the Complaint or publication notice. Since ordinarily

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there is no seizure of property in divorce, the jurisdiction problem was in clear focus. The 1957 amendments solved this problem, by providing, for the filing of a Complaint at the time of the filing of an affidavit of publication. Of course, the praecipe is still filed.

Temporary Relief

Provision was not made, in the 1955 laws, for a counterclaim or for relief for a counter-litigant who had no ground for divorce or separate maintenance. The 1957 amendments are all embracing, and pro-

vide that the court on verified written Motion alleging facts showing need to protect interests of any party, may grant leave for the filing of a Complaint or a Counterclaim or in any emergency enter Orders for child support, alimony, child custody, or visitation before the expiration of the 60 days.

Validation Of Certain Decrees

The following provisions for validation of certain decrees were made:

Sec. 6f provides that any decrees entered by any court of competent jurisdiction in any suit or proceeding under this Act filed after July 15, 1955 and prior to the effective date of this amendatory Act of 1957, which are regular in other respects are validated if,

(a) Filing of the Complaint was made either within 90 days from the filing of the praecipe or within 70 days from the service of summons, or last date of publication, whichever is the longer, or,

(b) Only one publication was made and that was commenced or completed after filing the praecipe and before filing of the Complaint for Divorce as provided by section 6b, or said Act, or,

(c) The praecipe has been filed before the statutory grounds of desertion or drunkenness have matured, providing only that the Complaint was not filed until after the maturing of the minimum period prescribed as grounds for divorce applying to that particular case, or,

(d) The court has by order entered subsequent to the automatic abatement of an action for divorce, vacated said automatic abatement, or,

(e) Any decree of divorce has been entered in conflict with the statutory provision for automatic abatement of Acts under Section 6b of said Act, or,

(f) Any decree of divorce has been entered in conflict with any provisions of Section 6d of said Act.

Conformance As To Time Schedule Of Civil Practice Act

The time for return of process, for defendant to appear, or time for defendant to Answer, was changed from 20 days to 30 days to conform to Civil Practice Act time schedule.

Blood Tests To Determine Paternity

The legislature passed House Bill 729 entitled "An Act On Blood Tests to Determine Paternity" which provided in effect:

In a civil action, in which paternity is a relevant fact, the court upon its own initiative or upon motion of any party to action, may order the mother, child and alleged father to submit to blood tests to determine whether or not the defendant shall be excluded as being the father of the child. The results of the tests shall be receivable in evidence only if definite exclusion is established. If the defendant refuses to submit, such fact shall not be disclosed upon trial. Provision is made for not more than 3 experts who shall be called by the court as witnesses as to their findings of exclusion and shall be subject to cross examination. Compensation shall be fixed by court and charged to parties as court prescribes or to county.

If the court finds the accused is not the father, the question of paternity shall then be resolved. If experts disagree, such findings are not admissible. Presumption of legitimacy is overcome if the experts exclude the father.

Will Revocation By Marriage, Divorce Or Annulment

The legislature passed Senate Bill 54 with reference to the problem of the effect of a marriage on an existing Will. Prior hereto, a marriage by the testator was deemed a revocation of an existing Will. However, in Estate of Day, 7 Ill. 2d 348, the court permitted the introduction of parole evidence to show that the Will executed prior to the marriage was in contemplation of the marriage and the court sustained the Will notwithstanding the subsequent marriage. This law solves the problem by providing that unless the Will expressly provides to the contrary, a marriage of the testator revokes a Will executed by the testator before the date of the marriage.

The said statute also related to the implied revocation of a Will by divorce or annulment. The law had been, as expressed in Gartin v. Gartin, 371 Ill. 418, that a husband's Will executed during his marriage was not revoked by his subsequent divorce no matter what his intention or circumstances may have been, since Illinois law provides how a Will could be revoked and divorce was not included. The 1957 Amendment provided in part as follows:

"That divorce or annulment of the marriage of the testator revokes any beneficial devise, legacy, or interest given to the testator's former spouse in Will executed before the entry of a decree for divorce or annulment and the Will shall take effect in the same manner as if the former spouse died before the testator."

Recent Case Law

Current developments in case law, included the following singular decisions:

DIVISIBLE DIVORCE EXTENDED — Vanderbilt v. Vanderbilt, Receiver and Sequestrator, 354 U.S. 416, 77 S. Ct. 1360 (1957)

Parties were married in 1948 and separated in 1952 in California. Wife moved to N. Y. where she has resided since February 1953. After filing suit for divorce in March in Nevada, husband secured an ex parte divorce in June. The wife was not served with process in

Nevada and did not appear. April 1954, wife sued in N. Y. for separation and for alimony. N. Y. court did not have personal jurisdiction over him, but sequestered his property. Husband filed a special appearance and contended that the Full Faith & Credit Clause compelled N. Y. to recognize Nevada decree. N. Y. court found decree valid but entered an order under S 1170-b of N. Y. Civil Practice Act directing husband to make payment.

U.S. Supreme Court upheld the order, and stated:

In Estin v. Estin, 334 U.S. 541, 68 S. Ct. 1213, 92 L. ed. 1561, this Court decided that a Nevada divorce court, which had no personal jurisdiction over the wife, had no power to terminate a husband's obligation to provide her support as required in a pre-existing New York separation decree. The factor which distinguishes the present case from Estin is that here the wife's right to support had not been reduced to judgment prior to the husband's ex parte divorce. In our opinion this difference is not material on the question before us. Since the wife was not subject to its jurisdiction, the Nevada divorce court had no power to extinguish any right which she had under the law of New York to financial support from her husband. It has long been the constitutional rule that a court cannot adjudicate a personal claim or obligation unless it has jurisdiction over the person of the defendant. Here, the Nevada divorce court was as powerless to cut off the wife's support right as it would have been to order the husband to pay alimony if the wife had brought the divorce action and he had not been subject to the divorce court's jurisdiction. Therefore, the Nevada decree, to the extent it purported to affect the wife's right to support, was void and the Full Faith and Credit Clause did not obligate New York to give it recognition.

POST-DECRETAL CHANCERY JURISDICTION OVER CHILDREN IN ANNULMENT — Cardenas, 12 Ill. A. 2d 497, 140 N.E. 2d 377 (1957) (Case of 1st impression in Illinois)

The wife filed suit for separate maintenance and then amended to divorce. The husband counterclaimed for annulment and custody of child, based on bigamy by the wife. A decree of Annulment was entered; six weeks later the court ordered support for the child born during the alleged marriage and granted visitation to the father. The wife appealed from that order.

The Illinois Appellate Court (1st Dist.) affirmed and stated:

The primary questions presented to us on this appeal is whether a court of equity, having entered a decree of annulment of a marriage, has jurisdiction with respect to matters relating to the care and custody of a minor child. It is a matter of first impression in Illinois. Such authority as there is in other states supports defendants' position that the court has jurisdiction in an annulment suit to provide for the care and custody of a child. *Henderson v. Henderson,* 187 Va. 121, 46 S.E. 2d 210 (1948); *Stone v. Stone.* 193 Okla. 458, 145 P. 2d 212 (1944); *Bass v. Ervin,* 177 Miss. 46, 170 So. 673 (1936); *Barker v. Barker,* 197 P. 2d 439 (Wash. 1948); *Peterson v. Peterson,* 164 Wash. 573, 3P 2d 1007.

To mitigate their lot the Legitimating Act of 1923, to which we have before referred (Ch. 89, Sec. 17a, Ill. Rev. Stat. 1955) was passed. It is the over-riding law on the question before this court. The statute reads as follows:

Whenever persons attempt or have attempted to contract or be joined in marriage, and some form of marriage ceremony recognized by law has been performed in apparent compliance with the law in relation to marriage, and, pursuant to such attempt to contract and be joined in marriage, cohabit or have cohabited together as husband and wife, and there is issue born after the taking effect of this Act as a result of such cohabitation, such issue is hereby made legitimate and may take the name of the father, though such attempted marriage is declared void or might be declared void, for any reason.

This statute was not passed merely to give a child a name although it does include that specific provision. It was, as stated in the able and enlightened opinion with respect to a similar law, 'founded in benevolence and charity' and its humanitarian principles require that it be liberally construed to effectuate its benign purpose." *Henderson v. Henderson, supra.* Such children not only have their father's name, they are entitled to look for and demand his care and protection.

DUTY TO SUPPORT AND EDUCATE CHILDREN BEYOND AGE OF MINORITY—Strom v. Strom, 13 Ill. App. 2d 354, 142 N.E. 2d 172 (1957)

A cross appeal was filed by the defendant's ex-wife from that part of an order which denied the defendant's petition for the creation of a fund for a polio stricken minor child, from which fund the child could be supplied with care and education, after attaining majority.

The court reversed and stated:

We come now to the important question in this case which arises on the cross-appeal of the wife. Is the father of a child stricken with a serious disease during minority completely relieved of obligation for the child's care and education upon her reaching majority (save such as may be provided by a pauper's suit in County Court) or may a court of chancery, having taken jurisdiction in a divorce proceeding, proceed to provide for such child's care and education beyond the period of her minority?

"This provision was first construed in Freestate v. Freestate, 244 Ill. App. 166. There, the Third Division of the Appellate Court, First District, had before it the petition of a mother for sufficient funds to provide for medical aid and support of a child. The child had been an invalid and at the time of the hearing was 23 years old. The court noted, as we have before, that the statute does not specifically refer to children who are minors and also noted that the question of whether such support can be obtained where the children are adults but are invalids and incapable of taking care of themselves had never been passed upon by that court or by the Supreme Court of this state. The court held that if a proper showing were made, the Chancellor had authority to require the father to contribute to the support of his invalid daughter. The court referred to two cases, Crain v. Mallone, 22 L.R.A. (N.S.) 1165 (Ky.) and

Rowell v. Town of Vershire, 62 Vt. 405. The circumstances in both of those cases were quite different from those in Freestate v. Freestate, supra, and in the instant case, but they state the general principle that a parent is obligated to support an adult child incapable of self support. "In Rife v. Rife, 272 Ill. App. 404 (1933) this division of the Appellate Court refused to follow the decision of the Freestate case and held that the chancellor was without jurisdiction to enter a post-decretal order providing for the support and education of a child beyond the attainment of her majority.

The chancellor was in error in assuming that he had no jurisdiction to provide for the care and education of the child in this case beyond the period of her minority. He should rehear the matter and determine what care and education is suitable and necessary to equip her for adult life, even though that care and education extend beyond the period of her minority, and should require the father to make adequate provisions therefor. In so doing he should take into consideration the large means of the father and the incapacity suffered by the daughter as a result of her illness. He should further take into account the fact that a large portion of the funds used to defray the cost of her illness, $5,000, was derived from an insurance policy taken out and paid for by a third person.

(Note: The Strom case adds a third case to the conflict on the Appellate Court level).

TIME TO FILE JURY DEMAND IN DIVORCE—
Fox v. Fox, 9 Ill. 2d 509, 138 N.E. 2d 547

Until this case the law established was that "the Motion for trial by jury is not too late if made when the cause is called for trial. (See: Caplow v. Caplow, 255 Ill. App. 389). Accordingly this was a tactical weapon employed not too infrequently in divorce cases. This case has changed the law and ruled that the following jury provisions in the Civil Practice Act Ill. Rev. Stat. Ch. 110 Sec. 64 (1955) shall apply to Divorce:

"A plaintiff desirous of a trial by jury must file a demand therefor with the clerk at the time the action is commenced. A defendant desirous of a trial by jury must file a demand therefor not later than the filing of his Answer. Otherwise, the party waives a jury."

HOSPITAL DISCRIMINATION

By JOSEPH MINSKY

Member Joseph Minsky is midwest staff counsel, American Jewish Congress

In March, 1956, the city of Chicago enacted the hospital "Anti-Discrimination Ordinance"[1] prohibiting discrimination in admission and the equality of care or treatment on account of race, color, creed, national origin or ancestry. Violators are subject to a fine. Prior to the enactment of this ordinance, the Illinois General Assembly, in 1955, provided that any hospital adjudicated to have denied admission to any person because of race, color or creed shall not be exempt from taxation.[2]

To date no court case has been instituted for violation of either law.[3] However, since the passage of the Chicago ordinance, the Chicago Commission on Human Relations has investigated twelve complaints alleging discrimination in Chicago hospitals. Two complaints concerned segregated facilities, while ten complaints alleged discrimination in admission and treatment. Several hospitals were the subject of more than one complaint.

The mere fact that no legal proceedings were initiated does not mean that discrimination has not been practiced by the hospitals investigated. It is often difficult to convert medical judgment and diagnosis into the evidence necessary to obtain a conviction in a quasi-criminal action. In several of the cases investigated, it was difficult to establish whether the type of treatment provided, or the lack of treatment, was the result of possible unsound judgment or discriminatory practices.

There is a general agreement among those close to the situation that the first prosecution for violation of the laws should be based on as clear-cut evidence of discrimination as possible. A finding of not guilty in the first prosecution, even if due to insufficient evidence, could cause harm to the future force and authority of the laws.

In spite of the lack of court prosecutions, the hospital anti-discrimination laws have had salutary effects. Some hospitals have eliminated prior discriminatory practices in order to conform with the law, particularly in treating emergency cases.

However, the lack of numerous complaints should not lead to the conclusion that all hospital discrimination has ended. It is well recognized that the number of complaints alleging racial and religious discrimination which are filed with government agencies is always less than the extent of such practices. People generally are reluctant to file complaints. Often individuals merely avoid becoming involved in situations where they would be subjected to racial or religious discrimination.

A major obstacle to the ultimate fulfillment of nondiscriminatory hospital practices is the absence of Negro physicians on the staffs of most of the private hospitals in Chicago. Recently, the Chicago City Council adopted a resolution[4] calling upon the Mayor, the Corporation Counsel, and the Board of Health to undertake such conferences and report such measures as may be required to end racial discrimination in hospital staff appointments.

These legislative steps towards eliminating the blight of discrimination in hospitals are encouraging.

[1]Chicago Municipal Code, 137-13.1.

[2]Ill. Rev. Stat., 1957, c. 120, Sec. 500(7).

[3]For the full review of the legal significance of all Illinois laws relating to discrimination in hospitals, see "Remedies for Racial or Religious Discrimination by Hospitals" prepared by the Commission on Law and Society Action of the American Jewish Congress (1957).

[4]Journal, City Council of Chicago, Sept. 19, 1957 (p. 6005).

BOOK REVIEWS

EGYPT, ISRAEL and the GULF OF AQABA, by L. M. Bloomfield, Q.C. The Carswell Co., Ltd. Canada. 240 pp. $5.00.

Reviewed by PAUL G. ANNES

Egypt and Israel are involved in the Gulf of Aqaba; and with them the entire community of nations. The events of October, 1956, are still near enough for all to remember the subsequent events and threat they posed to world peace. Major Bloomfield, a member of the Canadian Bar (and a member of the Decalogue Society of Lawyers) and writer on international law, has—to use his own modest words —"assemble(d) in convenient form some of the basic source material and references to data, papers and public statements, in the hope that it will contribute to a fuller and more enlightened understanding" of the problem. This he has surely done, and more.

It is, of course, very useful to have between the covers of one convenient volume the basic data making up the historical and political background of this vital issue, all liberally interspersed with the author's own unobtrusive observations; it is all there, text and commentary. And one relearns many interesting and important facts, such as: that the Sinai Peninsula, which formerly was a part of the Ottoman Empire, has never become an integral part of Egypt, which has been entrusted only with its exclusive administration; or the many acts of ideological and actual physical aggression against Israel on the part of Egypt, which led to Israel's Sinai campaign of self-defense.

Mr. Bloomfield has indeed achieved a result beyond his announced purpose. He has in fact reached out to certain definite legal conclusions, the principal among them being:

1.) Egypt is not entitled to exercise belligerent rights in the area of the Gulf of Aqaba.

2.) Since Egypt has only been entrusted with the administration of the Sinai Peninsula, she has no territorial water rights in the Gulf.

3.) The Egyptian arrangement with Saudi Arabia for the occupation of Tiran and Sanafir was in violation of international law and illegal.

The author's recommendation for the solution of the problem, at least tentatively, is for a trusteeship, under the authority of the United Nations, to administer the Gulf of Aqaba; until then, the United Nations Emergency Forces should remain in possession of the Sharen el Sheikh area and the Islands of Tiran and Sanafir. As to this, as to so many other world problems of our day, it is pertinent to observe that it is part of the contest between East and West, between "U.S.S.R." and "U.S.A.", and that it will be decided only as part of a total solution. Whenever the delegates will get down to write the "peace", this handy volume will be a valuable guide to them. In the meantime, all others interested in this subject will find it an agreeable and easy way to become well informed.

NEGLIGENCE CASES: WINNING STRATEGY, by Harry A. Gair & A. S. Cutler. Prentice-Hall, Inc. 355 pp. $7.50.

Reviewed by SAMUEL J. BASKIN

There may be those who, like the chef at the Waldorf, keep the secrets of their success locked in the inner sanctums of their own minds; but not so with trial lawyers. They generously make an "open book" of the secrets of their trade. A Darrow divulges the secrets of selecting a favorable jury; a Francis X. Busch gives us the benefit of his experiences during fifty years of practice; a Belli openly lets one know how he too can win six-figure verdicts. And now, two illustrious members of the New York bar, Harry A. Gair, President of the Metropolitan Trial Lawyers Association, and A. S. Cutler, eminent trial lawyer and author, in their *Negligence Cases: Winning Strategy*, "reveal with clarity and startling frankness the methods by which the authors have obtained large money verdicts in the trial of negligence cases." It is a book worth reading, but only if the reader doesn't expect all the answers. Just as following the Darrow recipe to the last ingredient doesn't make a Darrow, and the extensive use of visual evidence will not make one a Belli and a winner of $250,000 awards, merely reading this newest treatise will not bring one the jury awards that will make Uncle Sam his partner for 90% of the fee. However, with considerable sincerity and seriousness, the authors guide the lawyer, beginner or veteran, through the processes of handling a personal injury claim from retainer to verdict, with excellent verbatim examples of deposition testimony, opening statements, direct and cross-examinations and summations.

The chapters run the gamut from "first steps in preparing proof" through guides for deposition, jury selection, opening statement, direct and cross-examination of witnesses, medical evidence, "a winning summation," and the charge of the court. The book closes with constructive suggestions for consummating a settlement.

From the moment a retainer is secured, the cardinal watchword is "preparation" in the development of the evidence, in the law, and in the thorough study of the medical features of the case. Time and again, the authors state that there is one ingredient

that paves the road to a successful verdict: 'Just plain, unglamorous, sweaty, uninterrupted work," especially, in developing the medical features.

Though interspersed with platitudes and generalizations, the book does make specific and constructive suggestions. In selecting the jury, the authors suggest that one should bring out the weakness in his case before the other side does so. He should simplify the theory of his case and utilize his knowledge of group psychology. Arousing suspense, interest, and indignation must be his objectives in the opening statement. Thorough preparation of his witnesses, putting his best witness first, and directness and brevity are some of the prime considerations in direct examination. The proper knowledge of medical proof is stressed repeatedly. Meeting the medical expert before the trial and reading the medical authorities are the *sine qua non* for the presentation of the evidence on injuries. The art of cross-examination can be cultivated with experience and intelligence. Understanding the character and motivation of the witness is most essential for an effective cross-examination. In the summation, the full use of the blackboard treatment, particularly in computing expenses, life expectancy, and earnings, is emphasized.

Finally, the authors make some relevant observations to aid a lawyer in his settlement negotiations. Here again, a carefully prepared brief, an intelligent and sincere presentation of the merits of the case, both as to liability and damages, and a reputation for integrity, are the essential ingredients for securing a fair settlement. After twenty-five years of experience in this field, I can especially stress the importance of a reputation for honesty and reliability in presenting facts and figures and in making representations as to damages. Vigorous and energetic negotiating will always be respected. But since one deals with the same claim adjusters year after year, this reputation for consistent truthfulness is of paramount importance in effective persuasion.

It is the equating of hard work and integrity with the success of a lawyer in the negligence field that makes this treatise worth noting. These authors say this only because it is true. Long ago the Legislature removed the opportunity to surprise, trick, or entrap. Long ago, jurors began to look with suspicion on the orator, the shouter, and the actor in a civil suit. It is the sincere and quietly confident and prepared presentations that bring jury verdicts, rather than histrionics and sharpness. It is the reputation for integrity and fairness, rather than exaggerations and hostility that will bring an advocate the substantial settlements. Can one be honorable in the successful pursuit of the personal injury field? He must be, or he will fail. In no other field does a lack of honor become so widely known.

It is in such a pattern of seriousness that this book is cast. The authors are at their best in a verbatim example of an opening statement in an unusual malpractice case where the lawyer fully attained his objective of interesting and arousing the jury. In fact, the book is worth reading if only for the word-for-word examples of a direct and cross-examination of medical experts in a brilliant attempt to prove to a jury of the casual connection between the growth of a brain tumor and a trauma. There are also other excellent examples of cross-examination in an effective closing argument in an airplane-disaster death case, especially in the emphasis put on the depreciated dollar. An appendage with a few citations referring to some of these illustrations would have been of greater value than the "stock" check list at the end of each chapter.

The authors do not display the flamboyance and the drama of a Belli, however. The book is repetitious and pedestrian in spots. It has a tendency to oversimplify and overgeneralize. However, one cannot escape their premise—"Perspiration and preparation add up to inspiration that prevents exasperation at the trial." The Messrs. Gair and Cutler successfully challenge every lawyer to search his conscience and his mind.

MY PARTNER-IN-LAW. The life and times of George Morton Levy, by Martin W. Littleton as told to Kyle Crichton. Farrar, Straus & Cudahy. 256 pp. $4.00.

Reviewed by PAUL H. VISHNY

Member Paul H. Vishny is a former comment editor of the De Paul Law Review

This book, written by a former District Attorney of Nassau County in Long Island, is a personal defense (although the author denies this) of a cherished friend. George Morton Levy, a successful lawyer, was at one time the author's courtroom opponent and later his partner. In 1939, after more than twenty-five years of vigorous practice, Levy became absorbed in the development of Roosevelt Raceway, a harness racing track, and thereafter he devoted himself to building its business and making it into a large, modern and profitable operation. In the course of these activities, Frank Costello was hired by the track. Officially, his job was to keep bookmakers away, but actually there was no work for him to do. The author explains that it was never intended that Costello actually accomplish a thing—his "employment" was brought about solely by the necessity to convince a stubborn racing commissioner that bookmakers who weren't really there were being removed. Apparently, Levy had also been a golf-playing companion of Costello and another bookmaker.

These facts sufficed to entitle Levy to an invitation to appear before the headline-making Kefauver Committee. The hearings were televised and Levy was subjected to those arduous inquisitorial techniques which came to characterize legislative investigating committees. In the end he was cleared, as appears from the letters and the report included in the book. The clearance came well after the dramatic New York hearings, and the damage had already been done.

The author takes the reader back through the legal career of his friend. The descriptions of some of his criminal trials are well done. To one who has no previous knowledge of the entire matter, the author shows his friend to be a warm and generous person, albeit imperfect. The book is a personal tribute. Throughout the book, it is quite clear that George Morton Levy is a smart and capable person, whose business dealings are entered into with honesty. The book is written informally, and with humor which is too often trite. Unfortunately, it contains some unnecessary diversions.

The author speaks of the Kefauver Committee with anger and sarcasm. The country has become familiar with the deplorable lack of procedures employed by the legislative investigating committees. The author points up many of the distressing injustices which have become almost symbolic of these investigations—their "fishing expedition" character, the lack of specific charges in advance, the denial of the right to effective counsel, and the lack of all those procedures familiar to lawyers which make the courts our guarantors of liberty. However, in all candor, this reviewer feels compelled to state that there have been many more profound, and even more convincing, books and articles written about the dangers of unbridled legislative investigations. And these writings and other helpful publicity have had at least some impact on the future.

The sincerity of the author's friendship, and the genuine indignation with which he viewed his former partner's ordeal, are unquestionable. He has succeeded, even with a number of defects, in making his point.

RELIGIOUS PRACTICES IN SCHOOLS

Member Joseph Minsky of the midwest staff council of the American Jewish Congress addressed our Board of Managers at a luncheon in the Covenant Club, on November 15, on "Religious practices in Chicago schools." S. Abbot Rosen of the local Anti-Defamation league also spoke.

ADMIRALTY LAW

The Decalogue Society of Lawyers is the first association of lawyers in the middle west to create an Admiralty Law committee. Zeamore A. Ader, chairman, in suggesting the creation of the committee stated that the development of the St. Lawrence Seaway and Port Authority in the Chicago area indicates that legal problems in admiralty and maritime law would follow the ships coming into the Chicago district, for which the Bar must be prepared. A formal study of admiralty law is held at the offices of the Society, 180 W. Washington Street at 4:30 p.m. on the first and third Thursdays of the month.

Inter-American Bar Conference

Past President Harry D. Cohen has recently returned from an extended tour of South America. While in Buenos Aires, Argentina, Mr. Cohen attended, as delegate from The Decalogue Society of Lawyers, the Inter-American Bar Conference held there from November 14, to November 24.

Mr. Cohen reports that about 100 delegates from various Bar associations in the United States attended the conference. Legal problems touched upon at the various sessions and panels will be the subject, it is expected, of an article in a near issue of The Decalogue Journal.

DUPONT — GENERAL MOTORS CASE

Willis L. Hotchkiss, attorney in the Anti-Trust division of The Department of Justice, addressed our Society on December 13th on the "Dupont-General Motors case." Mr. Hotchkiss gave a vivid and a learned lecture on the law and facts involved in this litigation.

The address was under the auspices of The Decalogue Legal Education Committee, Albert I. Zemel, and John M. Weiner, co-chairmen.

DEADLINE — MARCH 31, 1958

The deadline of March 31, 1958 for filing claims for indemnification against the German government was announced by the Jewish Family and Community Service through its Legal Aid Department. Many lawyers have consulted the J.F.C.S. Legal Aid Department about the indemnification program. Since January of 1956, of the people assisted by its Legal Aid Department, 94 families have received a total settlement of $170,352.00 from the German government.

Member Maynard I. Wishner is a director of the Jewish Family and Community Service.

. . . The Decalogue Journal has been an eloquent and articulate medium in alerting the profession to inroads upon the rights of the individual . . .

—Thomas C. Clark, Associate Justice of the United States Supreme Court

A Lawyer's Reward

"THE HIGHEST REWARD that can come to a lawyer is the esteem of his professional brethren. That esteem is won in unique conditions and proceeds from an impartial judgment of professional rivals. It cannot be purchased. It cannot be artificially created. It cannot be gained by artifice or contrivance to attract public attention. It is not measured by pecuniary gains. It is an esteem which is born in sharp contests and thrives despite conflicting interests. It is an esteem commanded solely by integrity of character and by brains and skill in the honorable performance of professional duty. No mere manipulator or negotiator can secure it. It is essentially a tribute to a rugged independence of thought and intellectual honesty which shine forth amid the clouds of controversy. It is a tribute to exceptional power controlled by conscience and a sense of public duty,—to a knightly bearing and valor in the hottest of encounters. In a world of imperfect humans, the faults of human clay are always manifest. The special temptations and tests of lawyers are obvious enough. But, considering trial and error, success and defeat, the bar slowly makes its estimate and the memory of the careers which it approves are at once its most precious heritage and an important safeguard of the interests of society so largely in the keeping of the profession of the law in its manifold services."

Justice Charles Evans Hughes

Reprinted by request.

The Decalogue Society of Lawyers announces with deep regret the death of member Bernard Fisher on January 4, 1958.

JUDGE MICHAEL FEINBERG

Chicago Bench and Bar mourn the passing of Judge Michael Feinberg, Judge of the Illinois Appellate Court since 1946. The Judge died on Friday, December 8, 1957.

His judicial service covered more than thirty years, during which he was six times elected to the Circuit Court of Cook County. He had served on the Appellate Court since 1946 by appointment of the Illinois Supreme Court.

Judge Feinberg was born in Vilna, Poland, on July 15, 1886, and was brought to Chicago at the age of 2. He was admitted to the bar here in 1908 after graduation from John Marshall Law School.

He was a master in chancery of the Circuit Court for ten years, until 1927. He became chief justice of the Circuit Court in 1929, two years after he was elected to the bench. He was re-elected as a Circuit judge in 1933, 1939, 1945, 1951 and last June 3rd.

Judge Feinberg is survived by the widow, Anne, a son Stanley K., and two daughters, Mrs. Betty Epstein of Kenosha, Wis., and Mrs. Eileen Burdman of Kirksville, Mo.

MORTIMER PORGES

Member Mortimer Porges, 62, a charter member of The Decalogue Society died on September 4, 1957.

He was assistant Attorney General in charge of Sales-Tax cases from 1936 to 1941. He served as legal Adviser to the Collector of Internal Revenue for 1921 and 1922. He also was supervisor of Rules and Regulations for the Chicago office of The Illinois department of finance for seven years. He was a member of The Covenant Club of Illinois.

Surviving are his widow, Jessie; two daughters, Mrs. June Rosner and Mrs. Lois Solomon, and four grandchildren.

JOBS FOR LAWYERS

The Decalogue Society of Lawyers Placement Committee urges your help in finding employment for capable young lawyers recently admitted to the Illinois Bar. The services of experienced lawyers are also available. If and when in need of professional help please address our Society at 180 W. Washington Street, ANdover 3-6493, or call or write Michael Levin, chairman, The Decalogue Placement Committee, 30 N. LaSalle Street, ANdover 3-3186.

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